

12 June 1974

MEMORANDUM FOR: Legislative Counsel
SUBJECT : Records Management Act

1. The proposed bill H.R. 14935 is an amendment to Title 44, U.S. Code "The Records Management Act." The coverage is the same, however, it goes into more detail in explaining the definitions relating to records management. Important features of the bill that are noteworthy are:

a. The bill strengthens the authority of the Administrator of General Services with respect to records management by Federal agencies by:

- (1) Directing the Administrator to conduct inspections or paperwork studies at regular intervals of the records and records management practices and programs of every Federal agency.
- (2) Requiring the head of every Federal agency to transmit a report to the Administrator with respect to the records and records management practices and programs of each such agency during each period of two calendar years.
- (3) Giving the Administrator the authority to order, to the extent he considers necessary, the head of any Federal agency to take specific action with respect to the records or records management practices of his agency.

- (4) Requiring the Administrator to report to the Congress, the Director of the Office of Management and Budget, and the Comptroller General on all actions taken under items (1), (2), and (3) above.
- b. The bill establishes an independent organization in the Executive Branch of the Federal Government known as the Records Review Board. This Board shall render a ruling with respect to any appeal filed by a Federal agency relating to the actions taken by the Administrator in paragraph 1a above.
- c. The proposed bill also states "records, the use of which is restricted by law or for reasons of national security or the public interest, shall be inspected or surveyed in accordance with rules prescribed by the Administrator, subject to the approval of the head of the custodial Federal agency."

2. It has been the Agency's position (Agency General Counsel opinion of 2 Oct 1950) that Public Law 253 provides that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure and if the Director deems compliance with any existing law will result in such disclosures, no compliance is necessary. Therefore, the proposed act should not constitute any change in the Agency's position.

SIGNED

[Redacted Signature]

Chief

Information Systems Analysis Staff

STATINTL

ISAS:RAB:ER:mj (12 June 74)

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93D CONGRESS
2D SESSION

H. R. 14935

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1974

Mr. WHITE introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SHORT TITLE.**

4 **SECTION 1.** This Act may be cited as the "Records
5 Management Act".

6 **AMENDMENT OF TITLE 44, UNITED STATES CODE**

7 **SEC. 2. (a)** Title 44, United States Code, is amended
8 by striking out chapter 27 through chapter 31 and inserting
9 in lieu thereof the following new chapter:

I

1 **"Chapter 27—RECORDS MANAGEMENT**

"Sec.

"2701. Definitions.

"2702. Objectives of records management.

"2703. General responsibilities of Administrator.

"2704. Records management authority of Administrator.

"2705. Records Review Board.

"2706. Records management by Federal agencies.

"2707. Custody and control of property.

"2708. Establishment of standards for selective retention of records; security measures.

"2709. Records centers; storage, process, and servicing of records.

"2710. Interagency records transfers.

"2711. Retention of records.

"2712. Certifications and determinations on transferred records.

"2713. Safeguards.

"2714. Unlawful removal, destruction of records.

"2715. Records management personnel.

"2716. Authority of Comptroller General.

"2717. Rules.

2 **"§ 2701. Definitions**

3 **"For purposes of this chapter and chapter 25 of this**
4 **title—**

5 **"(1) the term 'records' has the meaning given it**
6 **by section 3301;**

7 **"(2) the term 'records management' means the**
8 **planning, controlling, directing, organizing, training,**
9 **promoting, and other managerial activities involved**
10 **with respect to records creation, records maintenance**
11 **and use, and records disposition, including the manage-**
12 **ment of correspondence, forms, directives, reports, ma-**
13 **chine readable records, microforms, information retrieval,**
14 **files, mail, vital records, records equipment and sup-**
15 **plies, word processing and source data automation tech-**

1 niques, records preservation, records disposal, and rec-
2 ords centers or other storage facilities;

3 “(3) the term ‘records management practices’
4 means any system, procedure, or technique followed
5 with respect to effective records creation, records main-
6 tenance and use, and records disposition;

7 “(4) the term ‘records creation’ means any process
8 involved with respect to producing any recorded infor-
9 mation necessary to conduct the business of a Federal
10 agency;

11 “(5) the term ‘records maintenance and use’ means
12 any activity involved with respect to—

13 “(A) the planning and establishment of meth-
14 ods for the location of records of a Federal agency;

15 “(B) the development and implementation of
16 systems and procedures to facilitate the safeguard-
17 ing, retrieval, and use of recorded information kept
18 at file locations;

19 “(C) the development and implementation of
20 systems for the economical and efficient processing
21 of mail of a Federal agency;

22 “(D) the control of selection and use of equip-
23 ment and supplies associated with records;

24 “(6) the term ‘records disposition’ means—

25 “(A) the removal by a Federal agency (in

1 accordance with approved records control schedules)
2 of records no longer necessary for the conduct of
3 business by such agency, through removal methods
4 which may include—

5 “(i) the disposal of temporary records by
6 destruction or donation;

7 “(ii) the transfer of records to Federal
8 agency storage facilities or records centers; and

9 “(iii) the transfer to the National Archives
10 of the United States of records determined to
11 have historical or other sufficient value to war-
12 rant continued preservation;

13 “(B) the transfer of records from one Federal
14 agency to any other Federal agency;

15 “(7) the term ‘records center’ means an establish-
16 ment maintained by the Administrator or by a Federal
17 agency primarily for the storage, servicing, security, and
18 processing of records which must be preserved for vary-
19 ing periods of time and need not be retained in office
20 equipment or space;

21 “(8) the term ‘inspection’ means the review of Fed-
22 eral agency records, records management practices, and
23 records management programs for the purpose of evalu-
24 ating records management effectiveness and recommend-
25 ing means for the improvement of records management;

1 “(9) the term ‘paperwork study’ means the carry-
2 ing out of an investigation and analysis of a particular
3 aspect of any paperwork process of a Federal agency,
4 with a view toward rendering findings and recommenda-
5 tions with respect to such process;

6 “(10) the term ‘servicing’ means making available
7 for use information in records and other materials in the
8 custody of the Administrator—

9 “(A) by furnishing the records or other mate-
10 rials, or information from them, or copies or repro-
11 ductions thereof, to any Federal agency for official
12 use, or to the public;

13 “(B) by making and furnishing authenticated
14 or unauthenticated copies or reproductions of the
15 records of other materials;

16 “(11) the term ‘unauthenticated copies’ means
17 exact copies or reproductions of records or other mate-
18 rials which are not certified as such under seal and which
19 need not be legally accepted as evidence;

20 “(12) the term ‘Federal agency’ shall have the
21 meaning defined in title 40, United States Code, sec-
22 tion 47 (2) (a) ;

23 “(13) the term ‘National Archives of the United
24 States’ means those official records which have been
25 determined by the Archivist to have sufficient historical

1 or other value to warrant their continued preservation by
2 the Federal Government, and which have been accepted
3 by the Administrator for deposit in his custody;

4 “(14) the term ‘Administrator’ means the Admin-
5 istrator of General Services; and

6 “(15) the term ‘Board’ means the Records Appeals
7 Board established by section 2705 (a) .

8 **“§ 2702. Objectives of records management**

9 “It is the purpose of this chapter and chapter 33 of this
10 title to require the establishment of standards and procedures
11 to assure efficient and effective records management. Such
12 standards and procedures shall seek to effectuate the follow-
13 ing goals:

14 “(1) accurate and complete documentation of the
15 policies and transactions of the Federal Government;

16 “(2) control of the quantity and quality of records
17 produced by the Federal Government;

18 “(3) simplification of the processes through which
19 records are created, stored, retrieved, and used;

20 “(4) the judicious preservation and disposal of
21 records;

22 “(5) the establishment and maintenance of a sys-
23 tem which focuses continuous attention upon records
24 from their initial creation to their final disposition;

25 “(6) the establishment and maintenance of mech-

1 anisms of control with respect to records creation, in
2 order to assure the prevention of unnecessary records;
3 and

4 “(7) the establishment and maintenance of such
5 other systems or techniques as the Administrator con-
6 siders necessary to carry out the purposes of this chapter
7 and chapter 33 of this title.

8 **“§ 2703. General responsibilities of Administrator**

9 “The Administrator shall provide guidance and assistance
10 to Federal agencies with respect to records creation, records
11 maintenance and use, and records disposition. In providing
12 such guidance and assistance, the Administrator shall—

13 “(1) develop and promulgate standards, procedures,
14 and techniques with respect to records management, in-
15 cluding guidance with respect to staffing and selection
16 and effective use of equipment and supplies;

17 “(2) conduct research with respect to the improve-
18 ment of records management practices;

19 “(3) serve as a clearinghouse for information with
20 respect to records management and as a central source
21 for reference and training materials with respect to
22 records management;

23 “(4) establish such interagency committees and
24 boards as may be necessary to provide an exchange
25 of information among Federal agencies;

1 “(5) disseminate information with respect to tech-
2 nological development in microfilm, automatic data proc-
3 essing, and other electronic and mechanized equipment
4 useful in the processing of recorded information;

5 “(6) promote the economical and efficient utiliza-
6 tion of space, equipment, and supplies necessary for
7 records creation, records maintenance and use, and
8 records disposition; and

9 “(7) conduct studies and require the heads of Fed-
10 eral agencies to conduct studies with respect to establish-
11 ing procedures designed to save human time and effort
12 in records management, with particular attention given
13 to standards and procedures governing the creation of
14 records.

15 **“§ 2704. Records management**

16 “(a) The Administrator shall—

17 “(1) conduct inspections or paperwork studies, at
18 regular intervals as determined to be necessary by the
19 Administrator, of the records and records management
20 practices and programs of every Federal agency;

21 “(2) require the head of every Federal agency to
22 transmit a report to the Administrator with respect to
23 the records and records management practices and pro-
24 grams of each such Federal agency during each period of
25 two calendar years;

1 “(3) prescribe rules with respect to records man-
2 agement; and

3 “(4) order, to the extent he considers necessary,
4 the head of any Federal agency to take specific action
5 with respect to the records or records management prac-
6 tices of his agency.

7 “(b) (1) The Administrator may conduct a special
8 project survey with respect to the records management
9 practices of any Federal agency at the request of the head
10 of such agency. Any such special project survey shall not
11 be in lieu of any inspection or paperwork study conducted
12 by the Administrator under subsection (a) (1).

13 “(2) The Administrator may require reimbursement
14 from the Federal agency involved for the cost of any special
15 project study conducted by the Administrator under para-
16 graph (1). Notwithstanding any other provision of law,
17 any such reimbursement shall be made directly to the Ad-
18 ministrator for crediting in any account maintained by the
19 General Services Administration.

20 “(3) For purposes of this subsection (b), the term
21 ‘Federal agency’ includes the Congress and the courts of the
22 United States.

23 “(c) The Administrator may conduct inspections or
24 paperwork studies, with respect to records and records
25 management practices, which involve a review of the policies

1 and practices of more than one Federal agency and which
2 examine interaction and relationships among Federal agen-
3 cies with respect to records and records management.

4 “(d) (1) The officers and employees of each Federal
5 agency shall cooperate fully with the Administrator with
6 respect to any inspection or paperwork study of any such
7 agency conducted by the Administrator under subsection
8 (a) (1) or subsection (c) and with respect to any special
9 project survey conducted by the Administrator under sub-
10 section (b) (1).

11 “(2) Records, the use of which is restricted by law or
12 for reasons of national security or the public interest, shall
13 be inspected or surveyed in accordance with rules prescribed
14 by the Administrator, subject to the approval of the head of
15 the custodial Federal agency.

16 “(e) (1) The Administrator shall transmit reports to
17 each House of the Congress no later than the close of
18 March 31 of each year. Each such report shall contain—

19 “(A) a detailed statement with respect to each in-
20 spection or paperwork study conducted by the Adminis-
21 trator under subsection (a) (1) or subsection (c);

22 “(B) a compilation of reports transmitted to the
23 Administrator under subsection (a) (2) during the most
24 recent calendar year; and

25 “(C) a description and explanation of any rule pre-

1 scribed by the Administrator under subsection (a) (3),
2 or of any order issued by the Administrator under sub-
3 section (a) (4) during the most recent calendar year.

4 “(2) Each report transmitted by the Administrator to
5 each House of the Congress under paragraph (1) shall at
6 the same time be transmitted to the Director of the Office of
7 Management and Budget and to the Comptroller General.
8 The Director and the Comptroller General shall review each
9 such report and transmit their comments and recommenda-
10 tions with respect to each such report to each House of the
11 Congress no later than sixty days after receiving each
12 such report.

13 “(f) Except as provided by section 2705, every Federal
14 agency shall comply with any order issued by the Adminis-
15 trator under subsection (a) (4) which applies to such
16 agency, no later than one year after the date upon which
17 such order is issued.

18 **“§ 2705. Records Review Board**

19 “(a) There is established as an independent organiza-
20 tion in the executive branch of the Federal Government a
21 board to be known as the Records Review Board.

22 “(b) (1) The Board shall be composed of five members
23 as follows:

24 “(A) three appointed by the President by and
25 with the advice and consent of the Senate;

1 “(B) one appointed by the Administrator; and

2 “(C) one appointed by the Director of the Office
3 of Management and Budget.

4 A vacancy in the Board shall be filled in the manner in
5 which the original appointment was made.

6 “(2) (A) Except as provided by subparagraphs (B)
7 and (C), members of the Board shall be appointed for
8 terms of five years.

9 “(B) Of the members first appointed—

10 “(i) two shall be appointed for terms of five years,

11 “(ii) two shall be appointed for terms of three
12 years, and

13 “(iii) one shall be appointed for a term of
14 one year, as designated by the President at the time of
15 appointment.

16 “(C) Any member appointed to fill a vacancy occur-
17 ring before the expiration of the term for which his prede-
18 cessor was appointed shall be appointed only for the
19 remainder of such term. A member may serve after the
20 expiration of his term until his successor has taken office.

21 “(e) (1) Except as provided by paragraph (2), mem-
22 bers of the Board shall each be entitled to receive the daily
23 equivalent of the annual rate of basic pay in effect for
24 grade GS-16 of the General Schedule for each day (includ-

1 ing traveltime) during which they are engaged in the ac-
2 tual performance of duties vested in the Board.

3 “(2) Members of the Board who are full-time officers
4 or employees of the Federal Government shall receive no
5 additional pay on account of their service on the Board.

6 “(3) While away from their homes or regular places
7 of business in the performance of services for the Board,
8 members of the Board shall be allowed travel expenses,
9 including per diem in lieu of subsistence, in the same man-
10 ner as persons employed intermittently in the Federal
11 Government service are allowed expenses under section
12 5703 (b) of title 5, United States Code.

13 “(d) The Board may appoint and fix the pay of such
14 personnel as it deems necessary to assist it in carrying out its
15 functions under this section.

16 “(e) (1) Any Federal agency may appeal to the Board
17 any order issued by the Administrator under section 2704
18 (a) (4).

19 “(2) Any such appeal shall be filed no later than three
20 months after the date upon which such order is issued. Such
21 appeal shall be in writing and shall contain a detailed state-
22 ment of the reasons of such agency for objecting to such
23 order.

24 “(3) The Administrator shall, no later than one month

1 after the filing of an appeal under paragraph (1), transmit
2 a written reply to such appeal to the Board. Such reply
3 shall include the reasons of the Administrator for issuing
4 such order.

5 “(4) The Board shall render a ruling with respect to
6 any appeal filed under paragraph (1) no later than three
7 months after the date of such filing. If such ruling requires
8 compliance with the order issued by the Administrator, the
9 Federal agency involved shall comply with such order no
10 later than six months after the date upon which such ruling
11 is rendered.

12 **“§ 2706. Records management by Federal agencies**

13 “(a) (1) The head of each Federal agency shall make
14 and preserve records containing adequate and proper docu-
15 mentation of the organization, functions, policies, decisions,
16 procedures, and essential transactions of the Federal agency
17 and designed to furnish the information necessary to protect
18 the legal and financial rights of the Federal Government and
19 of persons directly affected by the activities of the Federal
20 agency.

21 “(2) The head of each Federal agency shall establish
22 and maintain an efficient and continuing records management
23 program which shall focus upon the complete cycle of rec-
24 ords creation, records maintenance and use, and records dis-
25 position, the establishment of necessary or appropriate con-

1 trols, and achievement of the goals described in section 2702.

2 “(b) The records management program established by
3 the head of each Federal agency under subsection (a) (2)
4 shall include provision for—

5 “(1) effective controls over records creation, rec-
6 ords maintenance and use, and records disposition, with
7 respect to the conduct of current business;

8 “(2) cooperation with the Administrator in apply-
9 ing standards, procedures, and techniques designed to
10 improve records management, promote the maintenance
11 and security of records deemed appropriate for preserva-
12 tion, and facilitate the segregation and disposal of records
13 of temporary value; and

14 “(3) compliance with the provisions of this chapter
15 and of section 2101 through section 2113, and section
16 2501 through section 2507, and any rule prescribed un-
17 der such provisions.

18 **“§ 2707. Custody and control of property**

19 “The Administrator shall have immediate custody and
20 control of the National Archives Building and its contents,
21 and may design, construct, purchase, lease, maintain, oper-
22 ate, protect, and improve buildings used by him for the stor-
23 age of records of Federal agencies in the District of Columbia
24 and elsewhere.

1 **"§ 2708. Establishment of standards for selective reten-**
2 **tion of records; security measures**

3 **"The Administrator shall establish standards for the**
4 **selective retention of records of continuing value, and assist**
5 **Federal agencies in applying the standards to records in their**
6 **custody. He shall notify the head of a Federal agency of any**
7 **actual, impending, or threatened unlawful removal, defacing,**
8 **alteration, or destruction of records in the custody of such**
9 **agency that shall come to his attention, and assist the head**
10 **of such agency in initiating action through the Attorney**
11 **General for the recovery of records unlawfully removed and**
12 **for other redress provided by law.**

13 **"§ 2709. Records centers; storage, process, and servicing**
14 **of records**

15 **"(a). The Administrator may establish, maintain, and**
16 **operate—**

17 **"(1) records centers for storage, processing, and**
18 **servicing of records for Federal agencies pending their**
19 **deposit with the National Archives of the United States**
20 **or their disposition in any other manner authorized by**
21 **law; and**

22 **"(2) centralized microfilming services for Federal**
23 **agencies.**

24 **"(b) When the head of a Federal agency determines**
25 **that it may effect substantial economies or increased oper-**

1 ating efficiency, he shall provide for appropriate storage,
2 processing, and servicing of records in a records center main-
3 tained and operated by the Administrator or, when approved
4 by him, in a center maintained and operated by the head of
5 the Federal agency.

6 **"§ 2710. Interagency records transfers**

7 "Subject to applicable law, the Administrator shall pre-
8 scribe rules governing the transfer of records from the cus-
9 tody of one Federal agency to that of any other Federal
10 agency.

11 **"§ 2711. Retention of records**

12 "The Administrator may empower a Federal agency,
13 upon the submission of evidence of need, to retain records for
14 a longer period than that specified in disposal schedules. The
15 Administrator may withdraw, in accordance with rules pre-
16 scribed by him, disposal authorizations covering records
17 listed in disposal schedules.

18 **"§ 2712. Certifications and determinations on transferred**
19 **records**

20 "An official of the Federal Government who is author-
21 ized to certify to facts on the basis of records in his custody,
22 may certify to facts on the basis of records that have been
23 transferred by him or his predecessors to the Administrator,
24 and may authorize the Administrator to certify to facts and
25 to make administrative determinations on the basis of records

1 transferred to the Administrator, notwithstanding any other
2 law.

3 **"§ 2713. Safeguards**

4 "The head of each Federal agency shall establish safe-
5 guards against the removal or loss of records he determines
6 to be necessary and required by rules of the Administrator.
7 Safeguards shall include making it known to officials and
8 employees of the Federal agency—

9 " (1) that records in the custody of such agency
10 are not to be alienated or destroyed except in accord-
11 ance with sections 3301 through 3314 of this title; and

12 " (2) the penalties provided by law for the unlaw-
13 ful removal or destruction of records.

14 **"§ 2714. Unlawful removal, destruction of records**

15 "The head of each Federal agency shall notify the
16 Administrator of any actual, impending, or threatened un-
17 lawful removal, defacing, alteration, or destruction of rec-
18 ords in the custody of the agency of which he is the head
19 that shall come to his attention, and with the assistance of
20 the Administrator shall initiate action through the Attorney
21 General for the recovery of records he knows or has reason
22 to believe have been unlawfully removed from his agency,
23 or from another Federal agency whose records have been
24 transferred to his legal custody.

1 **"§ 2715. Records management personnel**

2 "The head of each Federal agency shall establish with-
3 in each such agency a centralized personnel system to ad-
4 minister the records management of each such agency. The
5 head of each Federal agency shall appoint and fix the pay
6 of such staff as is considered necessary to carry out such
7 records management.

8 **"§ 2716. Authority of Comptroller General**

9 "The provisions of this chapter and of section 2101
10 through section 2113, and section 2501 through section
11 2507, do not limit the authority of the Comptroller Gen-
12 eral of the United States with respect to prescribing account-
13 ing systems, forms, and procedures, or lessen the responsi-
14 bility of collecting and disbursing officers for rendition of
15 their accounts for settlement by the General Accounting
16 Office.

17 **"§ 2717. Rules**

18 "The Administrator may prescribe such rules as he con-
19 siders necessary to carry out the provisions of this chapter."

20 (b) The table of chapters for title 44, United States
21 Code, is amended by striking out the items relating to chapter
22 27, through chapter 31, and inserting in lieu thereof the fol-
23 lowing new item:

"27. Records management----- 2701".

1 **DEFINITION OF RECORDS**

2 **SEC. 3.** Section 3301 of title 44, United States Code,
3 is amended by inserting "machine readable materials," im-
4 mediately after "photographs,".

5 **EFFECTIVE DATE**

6 **SEC. 4.** The foregoing provisions of this Act shall take
7 effect on the date of the enactment of this Act, except that
8 any requirement for the transmission of reports to the Ad-
9 ministrator by the heads of Federal agencies or for the trans-
10 mission of reports to the Congress by the Administrator,
11 shall apply with respect to calendar years beginning after
12 the close of December 31, 1974.